
UTAH LABOR COMMISSION

BRYAN BAILEY,

Petitioner,

vs.

**GENEVA ROCK PRODUCTS and
WORKERS COMPENSATION FUND,**

Respondents.

**ORDER AFFIRMING
ALJ'S DECISION**

Case No. 2002767

Bryan Bailey asks the Utah Labor Commission to review Administrative Law Judge Sessions' denial of benefits to Mr. Bailey under the Utah Occupational Disease Act, Title 34A, Chapter 3, Utah Code Annotated.

The Labor Commission exercises jurisdiction over this motion for review pursuant to Utah Code Annotated § 63G-4-301 and § 34A-2-801(3).

BACKGROUND AND ISSUE PRESENTED

Mr. Bailey claims occupational disease benefits from Geneva Rock Products and its insurance carrier, Workers Compensation Fund, (referred to jointly as "Geneva") for a bilateral elbow condition allegedly arising from his years working for Geneva. Due to a conflict in medical opinions, Judge Sessions referred the medical aspects of the claim to a medical panel. The panel concluded that Mr. Bailey's condition was entirely caused by preexisting conditions. Judge Sessions adopted the panel's opinion and denied benefits.

In his motion for review, Mr. Bailey argues that the preponderance of the evidence shows that his work activities aggravated his preexisting condition and he is therefore entitled to benefits.

FINDINGS OF FACT

The following facts are relevant to the issues on review before the Commission:

Mr. Bailey had worked for Geneva for 12 years when he was diagnosed with bilateral ulnar nerve damage in his elbows in 2002. Dr. Stewart, Mr. Bailey's doctor, assessed 100% of Mr. Bailey's condition was caused by his work activities and recommended surgery. Dr. Hammon, Geneva's medical consultant, agreed with the diagnosis and recommended treatment, but assessed only 60% of the condition to Mr. Bailey's work, with 40% due to a preexisting congenital condition. However, the impartial medical panel concluded that Mr. Bailey's elbow condition was not caused or aggravated by his work activities, but by his congenital condition.

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DISCUSSION AND CONCLUSION OF LAW

The only issue before the Commission is whether Mr. Bailey's work caused his occupational disease. The impartial medical panel, consisting of two physicians unaffiliated with either party, reviewed the medical evidence, conducted its own examination of Mr. Bailey, researched the medical literature, and concluded Mr. Bailey's condition was not caused by his work activities. The Commission has reviewed the evidence, including the various medical opinions, and finds the panel's decision well-reasoned and persuasive. The Commission concludes that the preponderance of the evidence shows Mr. Bailey's work activities did not cause or aggravate his elbow condition and affirms Judge Sessions' decision denying benefits.

ORDER

The Commission affirms Judge Sessions' decision. It is so ordered.

Dated this 26th day of November, 2008.

Sherrie Hayashi
Utah Labor Commissioner

NOTICE OF APPEAL RIGHTS

Any party may ask the Labor Commission to reconsider this Order. Any such request for reconsideration must be received by the Labor Commission within 20 days of the date of this order. Alternatively, any party may appeal this order to the Utah Court of Appeals by filing a petition for review with the court. Any such petition for review must be received by the court within 30 days of the date of this order.

